

Memorandum to the City of Markham Committee of Adjustment

March 04, 2021

File: A/007/21
Address: 19 George St Markham
Applicant: Om Lasi
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: March 20, 2021

The following comments are provided on behalf of the Heritage Team:

The applicant is requesting relief from the following requirements of By-law 1229, R3 as amended, to permit:

1. an accessory dwelling unit, whereas the By-law does not permit the use;
2. an unenclosed stairs to encroach 63 inches into the required rear yard, whereas the By-law permits a maximum of 18 inches;
3. a minimum rear yard of 23 feet 11 inches, whereas the By-law requires 25 feet (right unit);
4. two parking spaces, whereas the By-law requires three spaces;

As they relate to a proposed basement apartment and walk-up stairs at the rear of the building.

BACKGROUND

Property Description

The subject 824.85m² (8,878.61 ft²) property is located on the east side of George Street mid-block between Parkway Avenue to the North and Church Street to the south, immediately adjacent to the Markham Lawn Bowling Club (See Figure 1- Location Map) The property is occupied by a one storey detached heritage dwelling constructed circa 1857 known as the Wilson-Freel House (See Figure 2- Photograph of the Wilson-Freel House). The property is also located within the Markham Village Heritage Conservation District in an established historic residential neighbourhood.

In January 2021, The City approved a 510.57m² (5,495.7 ft²) two storey addition to the Wilson-Freel House to create a pair of semi-detached dwelling units, similar to the semi-detached residences to the south which also incorporated a former single detached heritage residence (See Figure 3 –Plans for the Addition to the Wilson Freel House Approved by the City). The owner of the property may, or may not submit a future severance application to the City to permit separate ownership of the semi-detached dwellings.

Proposal

The applicant is proposing a Secondary Suite in the basement of the Wilson-Freel House, accessed by a set of unenclosed stairs to a below grade, direct and separate entrance located at the rear of the addition to the Wilson-Freel House which has not yet been constructed. No other changes are being proposed to the exterior of the dwelling or property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

Official Plan 2014

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single and semi-detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the 'Residential – Low Rise' designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

Section 8.2.1.2 identifies uses that may be provided for in all 'Residential' designations and includes a secondary suite in accordance with Section 8.13.8.

The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons."

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including:

- a) The building type in which the secondary suite is contained;

- b) The percentage of the floor area of the building type devoted to the secondary suite;
- c) The number of dwelling units permitted on the same lot
- d) The size of the secondary suite;
- e) The applicable parking standards; and
- f) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 1229

The subject property is zoned R3 under By-law 1229, as amended, which permits single, semi-detached, triplex and other small scale multi-residential dwellings.

Parking Standards By-law 28-97

The proposed secondary suite also does not comply with the standard of the Parking By-law 28-97 with respect to the number of parking spaces. Further details of the parking requirement is provided in the comment section below.

Zoning Preliminary Review (ZPR) Undertaken

The owner completed a Zoning Preliminary Review (ZPR) in December of 2020 to confirm the variances required for the proposed development.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Suites

Fire and Emergency Services Department has no objection provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

Reduced Parking Spaces

Parking Standards By-law 28-97 requires two parking spaces be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The existing single-car garage and driveway currently provide a total 2 tandem parking spaces.

Requiring an additional parking space would result in changes to the approved plans and property, such as reduced soft landscaping and increased hard surface area within the front yard; both of which is likely to detract from the visual appearance of the property and have a negative impact on the streetscape. Furthermore, this will reduce the amount of soft surface area that currently provides for the infiltration of rain water, which is an important part of good stormwater management practices.

Staff is of the opinion that to ensure the secondary suite remains inconspicuous from the street, and that the character of the dwelling and neighbourhood does not change, no additional parking should be required. Staff is also of the opinion that the parking issue may be considered “self-regulating”, as the unit would only be of interest to a tenant that does not require a parking space, in the event that both parking spaces are required for use by the owner of the dwelling. It is noted that no overnight parking is permitted on this street, and violators would be ticketed nightly.

Reduced Rear Yard Setback and Encroachment into the Required Rear Yard

The requested variance to permit a rear yard setback of 23'-11" and to permit the proposed unenclosed stairs to encroach 5'-3" into the required rear yard are interrelated, and can be considered to be minor in nature numerically and in their impact given that the proposed unenclosed staircase is below grade, not visible from the public realm of George Street, and has no apparent negative effects on neighbouring property owners. They are also desirable and appropriate to permit the separate, direct entrance to the proposed Secondary Suite.

The City's Urban Design Section and Engineering Department have provided no comments on the application.

Heritage Markham reviewed the requested variances on February 10, 2021 and had no objection to the their approval by the Committee of Adjustment (See Appendix “C-Heritage Markham Extract from February 10, 2021)

PUBLIC INPUT SUMMARY

No written submissions were received as of March 4, 2021. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Peter Wokral, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Manager of Heritage Planning

Figure 1- Location Map

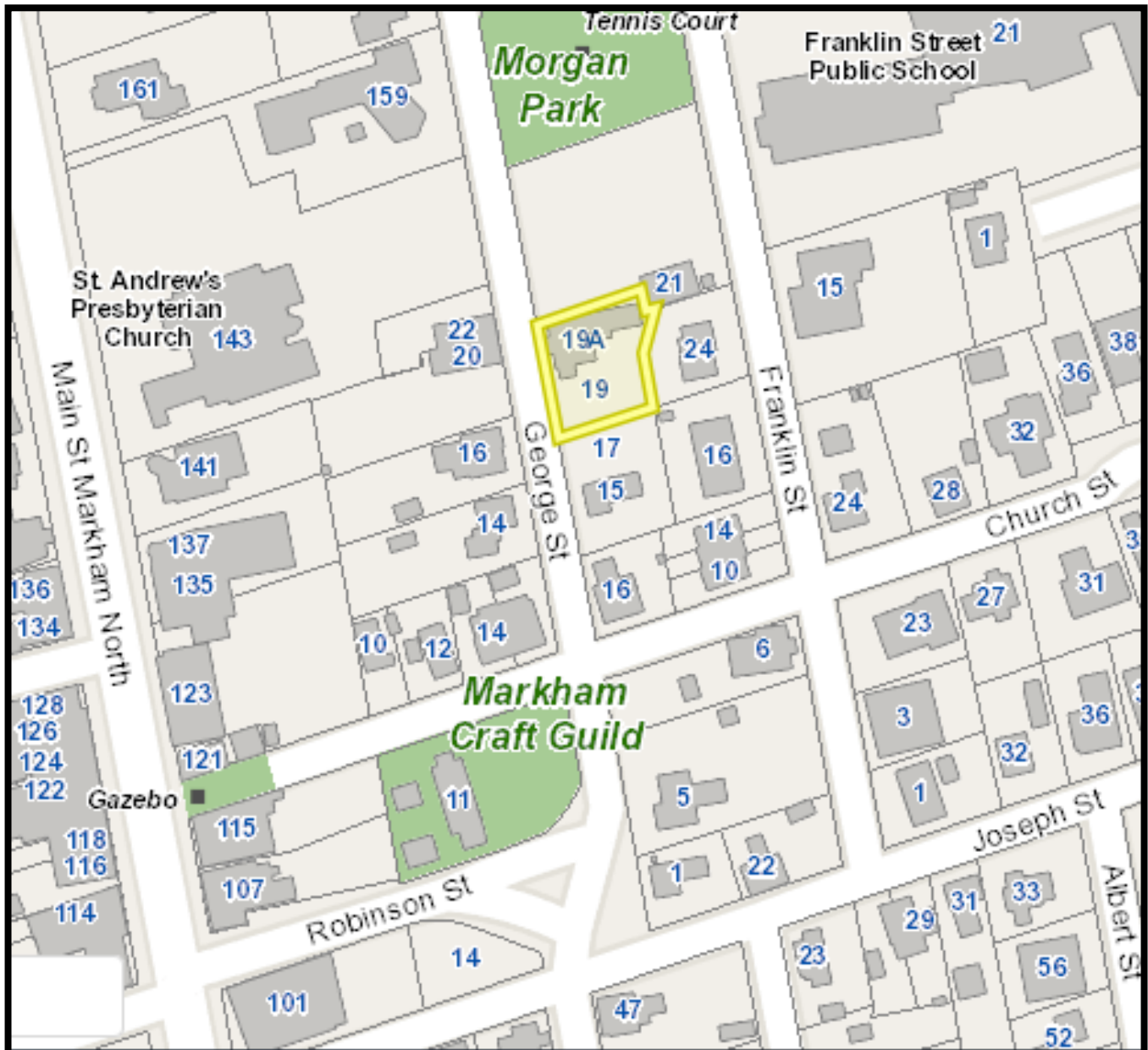
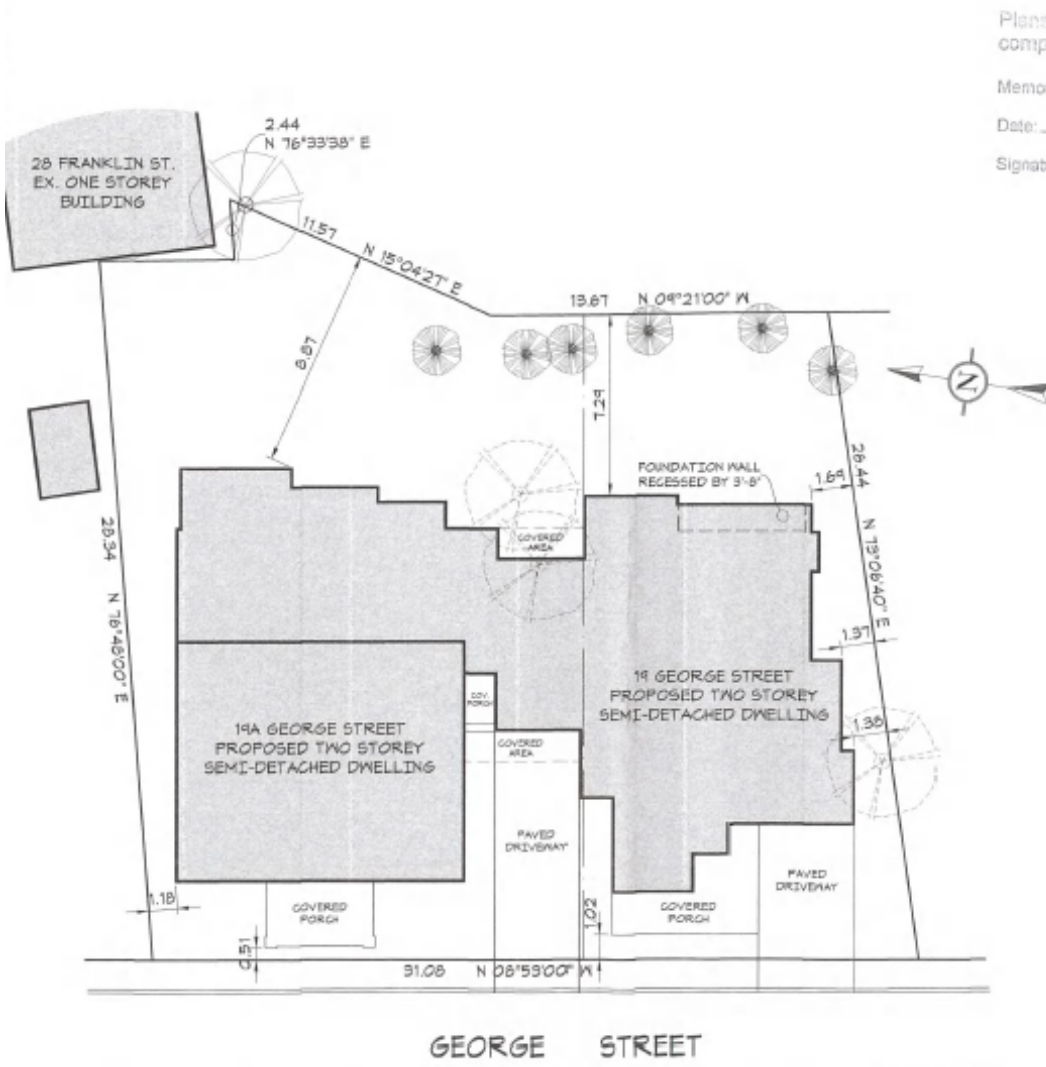


Figure 2- Photograph of the Wilson Freel House



Figure 3- City Approved Plans for Addition to the Wilson-Freel House



Plans endorsed in principle subject to compliance with conditions set out in

Memorandum dated: July 19, 2019

Date: July 19, 2019

Signature: [Signature]
Senior Development Manager

City of MARKHAM

PLANNING DEPARTMENT

APPROVED

PLANS APPROVED IN ACCORDANCE WITH SECTION 41 OF THE PLANNING ACT AND SUBJECT TO THE SITE PLAN APPROVAL MEMO FOR THE FILE BELOW.

File: 18.228713.000.00.SC

Date: 1/12/21

MWD/YYY

Senior Development Manager
(or their designate)



- Notes for Builders:**
- Existing windows to remain and be repaired where required.
 - Foundation of heritage house to be level with water table. Heritage Foundation set (top) is visible in the concrete foundation.
 - Existing drainage to be maintained in full extent, or match the grade on the heritage house as closely as possible.
 - Existing stone front door to remain and be repaired where required.
 - Fire Rated Assembly and Siding over "D" or "D" Siding where stone (door) to be preserved.
 - All windows to be double glazed unless to be replaced. Colour to be determined.
 - All exterior door systems to be in good or better condition. Colour to be determined.
 - All siding to be "D" or "D" Siding and match original. Colour to be determined.
 - All areas that need to be repaired with stone or brick to be determined.
 - Using proper weathering, caulking, and flashing to repair existing.
 - Condition of roof shingles to be replaced and colour to be matching existing shingles and heritage heritage for approval prior to installation or use.

FRONT (WEST) ELEVATION

RIGHT SIDE (SOUTH) ELEVATION

Plans prepared in principle subject to compliance with conditions set out in Memorandum dated July 19, 2019
 Date: July 19, 2019
 Signature: [Signature] Senior Development Manager

City of **MARKHAM**

PLANNING DEPARTMENT

APPROVED

PLANS APPROVED IN ACCORDANCE WITH SECTION 17 OF THE MARKHAM ACT (2012)

SUBJECT TO THE SEVERAL APPLICABLE BY-LAWS FOR THE P.A. BY-LAW

File: **18-26713-006-B-10-C**

Date: **1/2/21**

18/000/YY

Senior Development Manager (or their designate)



**APPENDIX “A”
 CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/007/21**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan attached as 'Appendix B' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
3. That the owner implement and maintain all of the works required in accordance with the conditions of this variance;
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;

5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations.

6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations;

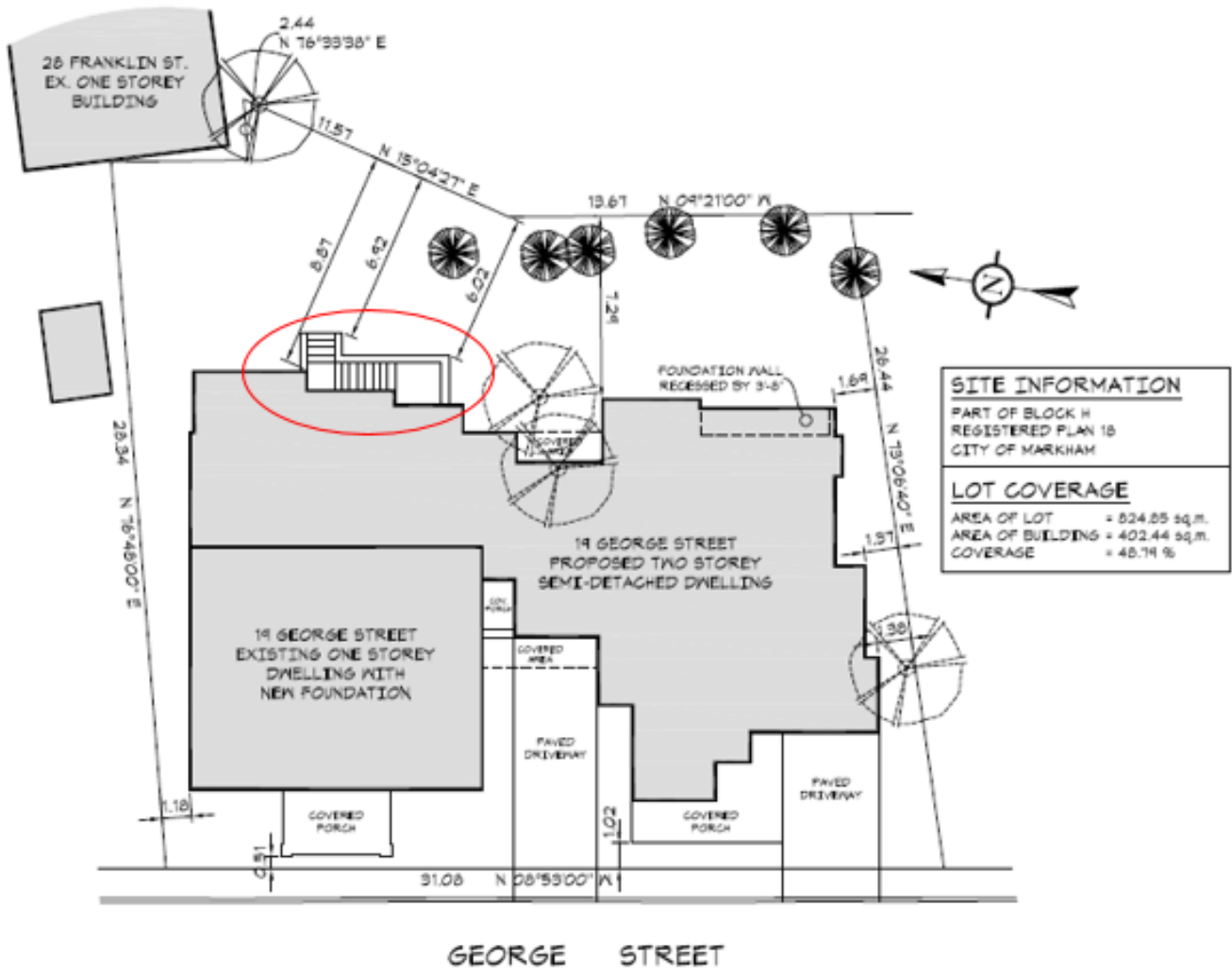
7. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read "Peter Wokral". The signature is fluid and cursive, with a large initial "P" and "W".

Peter Wokral, Senior Heritage Planner

APPENDIX "B"



APPENDIX “C”- Heritage Markham Extract of February 10, 2021

5.3 COMMITTEE OF ADJUSTMENT VARIANCE APPLICATION

19 GEORGE STREET
MARKHAM VILLAGE HERITAGE CONSERVATION DISTRICT
PROPOSED SECONDARY SUITE (16.11)

FILE NUMBER:

A/007/21

Extracts:

R. Hutcheson, Manager, Heritage Planning

P. Wokral, Senior Heritage Planner

In response to an inquiry from the Committee, Russ Gregory, representing the Applicant advised that the entrance to the proposed secondary suite will be in the rear yard and that it will be used by a family member.

Recommendation:

THAT Heritage Markham has no objection to the requested variances to permit a Secondary Suite in the basement of the Wilson-Freel House described in A/007/21 from a heritage perspective and that final review of the application be delegated to Heritage Section staff.

Carried

